

REMARKS

Claims 1, 2, 4-12, and 14-15 remain in this application with claims 1 and 10 in independent form. Claims 1, 2, 4-10, 15 have been amended. There is full support in the specification as originally filed for the amendments and no new matter is believed to be added.

Claims 1-2, 4-12, and 14-15 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner contends that the use of “at least one of” before the first electronic device and the access point renders the use of “the first electronic device” and “the access point” later within the claims indefinite without “at least one of” appearing before these terms.

Applicant respectfully disagrees. It is clear from the claims that the subject invention relates to securing a network that includes at least one first electronic device. As described in the specification as originally filed, the first electronic device includes computers, printers, PDA's, copy machines, cellular phones, or other electronic device found in a working space **14**. In other words, it is likely that a working space will include multiple printers, computers, etc. Thus, the claimed invention is referring to any of the first electronic devices, one or more, and for simplicity omitted the “at least one of” before every occurrence of “the first electronic device.” The same is true with respect to usage of “the access point.”

However, Applicant has amended the claims to recite the “at least one of” as suggested by the Examiner. It is to be appreciated that these amendments have no effect on the scope or interpretation on the claims since the claims as originally presented were

definite and unambiguous and these amendments were made solely to advance prosecution of the subject application. As such, the §112 rejection is overcome.

Claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Curtis et al. (United States Patent No. 5,963,599) in view of He et al. (United States Patent No. 6,088,451) and in further view of Hanson et al. (United States Patent No. 6,546,425).

Applicant respectfully submits that the Office has failed to establish the requisite *prima facie* case of obviousness. Specifically, the Office has failed to provide a teaching or motivation to make the combination as suggested. The motivation to combine the cited references must flow from some teaching in the art that suggests the desirability or incentive to make the combination needed to arrive at the claimed invention. The mere fact that the cited references could be so combined would not have made the combination obvious unless the cited references suggested the desirability of the combination. Further, even if the references could be combined, the Office has failed to show that the combination discloses each and every limitation as claimed in the subject application.

Lack of Suggestion or Motivation

With reference to claim 1, the Examiner contends that Curtis at Figure 5A and 5B and from column 7, line 63 to column 8, line 13, discloses “enabling the at least one first electronic device to allow the user having the second electronic device to access the network and the at least one first electronic device in response to at least one access point detecting the RF signals from both the at least one first and the second electronic devices”.

Applicant has reviewed Curtis as a whole and such a disclosure is lacking. From Curtis, column 7, line 63 to column 8, line 13, it states:

“FIGS. 5a and 5b illustrates a block diagram of a simplified wireless local area network (WLAN) 10 such as may use a Truncated Maximum Likelihood Sequence Estimator (TMLSE) of the present invention. Wireless local area networks enable users of personal computers 14, which may include lap top computers, desk top computers and the like, to connect wirelessly to computer networks 18, 19. For example, a wireless radio 12 (not illustrated) may be embodied as a Personal Computer (PC) card and interfaced to the computer within a PC card slot of the computer (e.g. in conformity with the PCMCIA standard) to provide wireless connectivity to any other computer also equipped with the wireless radio. With the wireless radios making up the WLAN, communications can be ad-hoc between lap top and/or personal computers, as illustrated in FIG. 5b or communications may be between a computer and a computer or Ethernet network 19 through an access point 16 for wireless extensions.”

The passages relied upon by the Examiner merely disclose computers connecting wirelessly to a network. Curtis does not disclose, teach, or suggest the subject invention as claimed. Specifically, there is no disclosure within Curtis directed toward allowing access to the at least one first electronic device and the network to a user having a second electronic device *in response to at least one access point detecting the RF signals from both the at least one first and the second electronic devices*. Curtis does not require the second electronic device and the first electronic device to communicate through the same access point to be enabled for the user to access the first electronic device and the network.

The subject invention is directed toward securing access to a network of multiple first electronic devices to the user having the second electronic device that is within a desired proximity, defined by both the electronic devices communicating with the same access point. In view of the failure of Curtis to disclose the subject invention, it is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its

teacher." *In re Lee*, 277 F.3d at 1343, citing *W.L. Gore v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983). *See In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 U.S.P.Q.2d 1529, 1531-32 (Fed. Cir. 1988).

Moreover, reliance on He et al. and Hanson et al. does not provide the omitted disclosure, teaching, or suggestion within Curtis. It is respectfully submitted that there is no suggestion or motivation disclosed within Curtis to combine Curtis with the teachings of He et al. and Hanson et al. Each of the relied upon references are directed toward different applications that have generally overlapping disclosures in that the references pertain to computers and networks. Neither addresses the same problem or are related in scope of technology as the claimed invention. While the teachings of He et al. may be used with the subject invention after the first electronic device is enabled, He et al. does not disclose, teach, or suggest enabling the first electronic device and the network to a user having a second electronic device *in response to at least one access point detecting the RF signals from both the at least one first and the second electronic devices*. He et al. merely relates to a security protocol that can be implemented on a network of computers. As such, reliance on He et al. does not overcome the failure to establish the requisite *prima facie* case of obviousness.

Similarly, Hanson et al. merely discloses wireless communication and does not disclose, teach, or suggest the method of securing access to a network from a user having a second electronic device.

Such a combination of Curtis with He et al. and Hanson et al. employs impermissible hindsight and does not consider the claimed invention as a whole. In other words, the claimed invention is being analyzed element by element as a roadmap to find the prior art components and the Examiner is discounting the value of combining these

elements in a new way to achieve a new result. As is well known, the suggestion to combine references must not be derived by hindsight from knowledge of the claimed invention itself or in view of the Applicants disclosure.

Even if the art appears combinable or modifiable in a manner that will yield the claimed invention, this is insufficient to make the resultant modification obvious. The art must still suggest the desirability of the modification.

Therefore, it is respectfully submitted that the Examiner has failed to provide an adequate suggestion or motivation to combine Curtis with He et al. and Hanson et al. to arrive at the subject invention as claimed.

Each and Every Feature Not Disclosed

Even if the combination of Curtis with He et al. and Hanson et al. is deemed to be proper, the *prima facie* case of obviousness has still not been established because the combination does not disclose, either expressly or inherently, each and every feature of the claimed invention. As set forth above, the Examiner's reliance on Curtis does not disclose, teach, or suggest the novel and unique limitations of the subject invention as claimed.

To reiterate, claim 1 recites that the first electronic device **18** is enabled in response to the access point **20** detecting the RF signals **48, 50** *from both the first 18 and the second electronic devices 12 and based upon the user privileges*. Said another way, if the user privileges for the user exclude certain first electronic devices **18**, then those first electronic device may remain disabled even if the signal strength is above the predetermined threshold. Once the first electronic device is enabled, the user **16** is allowed to access the first electronic device **18** and to access the network **13**. Note that it is *the user that can access the first electronic device 18* once it has been enabled. The

subject invention is not merely having two electronic devices communicate with one another as it seems is suggested by the Examiner's rejection. So long as the electronic devices communicate with the same access point, the first electronic device is enable to allow access thereto. This is different than the references cited and relied upon the Examiner and such a unique and novel limitation is not disclosed, taught, or suggested by the references.

Another unique and novel step that this not disclosed, taught, or suggested by the references is disabling the first electronic device **18** in response to either one of the signal **48, 50** strengths from the first electronic device **18** and the second electronic devices **12** no longer being detected by the access point **20**. The first electronic device **18** is re-enabled in response to the access point **20** detecting the RF signals **48, 50** from both the first **18** and the second electronic devices **12** above the predetermined threshold and based upon the user privileges. As the user **16** moves about the working space, such as away from the first electronic device **18** and away form the access point **20**, the signal strength from the second electronic device **12** drops below the predetermined threshold. In order to create a secure environment, the first electronic device **18** disables and prevents unauthorized access thereto. As the user **16** re-enters the working space and moves close enough to the access point **20** such that the signal strength is above the predetermined threshold, the first electronic devices **18** become re-enabled to allow access thereto.

Relying on the disclosures of He et al. and Hanson et al. does not satisfy the omitted claimed features. Since, each and every feature claimed is not disclosed, taught, or suggested, it is respectfully submitted that the 35 U.S.C. §103 rejection is improper and should be withdrawn. Thus, claim 1 is believed to be allowable.

Claims 2, 4-5, 7, 15, and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Curtis et al. in view of He et al. and Hanson et al. and further in view of Meier (United States Patent No. 5,673,031). It is respectfully submitted that claims 2, 4-5, 7, 15, and 8 depend directly or indirectly from allowable claim 1 and as such, are also believed to be allowable and the §103 rejection is overcome.

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Curtis et al. in view of He et al. and Hanson et al. and further in view of Meier and van Bokhorst et al. (United States Patent No. 6,192,230). It is respectfully submitted that claim 6 depends directly or indirectly from allowable claim 1 and as such, is also believed to be allowable and the §103 rejection is overcome.

Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over Curtis et al. in view of He et al. and Hanson et al. and further in view of Meier and Stewart (United States Patent No. 5,969,678). It is respectfully submitted that claim 9 depends directly or indirectly from allowable claim 1 and as such, is also believed to be allowable and the §103 rejection is overcome.

Claims 10-12 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bahl (United States Patent No. 6,629,151) in view of He et al. and Porter et al. (United States Patent No. 6,745,013) and further in view of Hanson et al.

Applicant respectfully submits that the Office has failed to establish the requisite *prima facie* case of obviousness. Specifically, the Office has failed to provide a teaching or motivation to make the combination as suggested. The motivation to combine the cited references must flow from some teaching in the art that suggests the desirability or incentive to make the combination needed to arrive at the claimed invention. The mere fact that the cited references could be so combined would not have made the combination

obvious unless the cited references suggested the desirability of the combination. Further, even if the references could be combined, the Office has failed to show that the combination discloses each and every limitation as claimed in the subject application.

Lack of Suggestion or Motivation

With reference to claim 10, the Examiner contends that Bahl discloses enabling a predetermined number of first electronic devices in response to the RF signal from a second electronic device having a strength above predetermined threshold at either one of a first and second access points in Figure 3, column 5, lines 50-58, and column 8, lines 49-64.

Applicant has reviewed Bahl as a whole and such a disclosure is lacking. From Bahl, column 5, lines 50-58, it states:

“Turning to FIG. 3, an exemplary WLAN 118 is shown. The WLAN 118 is also connected to another network 134, and to a wire-based network 140. A computer, such as portable computer 120 and portable computer 130 can link to the WLAN through a Wireless Network Interface Card (WNIC) 122 or a WNIC 132. The WNIC 122 can communicate, in a wireless fashion with a base station 124, base station 126, or base station 128. In addition, WNIC 122 can communicate with another WNIC 132 directly.”

At column 8, lines 49-64, Bahl states:

“A wireless network connection allows a user the freedom to move around their environment. In order to do so, however, the WNIC 122 must be capable of supporting a handoff between two base stations, such as base stations 124 and 128 in FIG. 3. Thus, as the user moved from the vicinity of base station 124 to the vicinity of base station 128, the signal of base station 124 would become weaker and more prone to noise and error, and the signal of base station 128 would become stronger. When a certain threshold is reached, it becomes desirable for the WNIC 122 to communicate with base station 128 rather than base station 124. The ability of the WNIC 122 to end communication with base station 124 and start communicating with base station 128 without disconnecting the user from the network 118 is known as a handoff.”

It is unclear from the above passage, how such a limitation has been identified by the Examiner. Bahl does not disclose, teach, or suggest the subject invention as claimed. Specifically, there is no disclosure, teaching, or suggestion within Bahl directed toward enabling a predetermined number of first electronic devices in response to the signal strength being above a predetermined threshold at either the first or second access point and there is no disclosure, teaching, or suggestion or re-enabling the first electronic devices as claimed.

Bahl merely discloses wireless computers connecting wirelessly to a network as set forth in the passage relied upon by the Examiner. The subject invention is directed toward securing access to a network of multiple first electronic devices to the user having the second electronic device that is within a desired proximity, defined by either one of the access points measuring the signal strength above a predetermined threshold and maintaining the first electronic device enabled so long as at least one access point measures the signal strength above the predetermined threshold. In view of the failure of Bahl to disclose the subject invention, it is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher." *In re Lee*, 277 F.3d at 1343, citing *W.L. Gore v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 312-13 (Fed. Cir. 1983). *See In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 U.S.P.Q.2d 1529, 1531-32 (Fed. Cir. 1988).

Moreover, reliance on He et al., Porter et al. and Hanson et al. does not provide the omitted disclosure, teaching, or suggestion within Bahl. It is respectfully submitted that there is no suggestion or motivation disclosed within Bahl to combine Bahl with the teachings of He et al., Porter et al., and Hanson et al. Each of the relied upon references are directed toward different applications that have generally overlapping disclosures in

that the references pertain to computers and networks. Neither addresses the same problem or are related in scope of technology as the claimed invention. He et al. and Hanson et al. were addressed above. Porter et al. is merely directed toward conserving power of a transmitter based upon detected signal strength. Porter et al. does not disclose, teach, or suggest enabling and disabling access to a network and first electronic devices in response to at least one access point detecting the signal strength above a predetermined threshold.

Such a combination of Bahl with He et al., Porter et al., and Hanson et al. employs impermissible hindsight and does not consider the claimed invention as a whole. In other words, the claimed invention is being analyzed element by element as a roadmap to find the prior art components and the Examiner is discounting the value of combining these elements in a new way to achieve a new result. As is well known, the suggestion to combine references must not be derived by hindsight from knowledge of the claimed invention itself or in view of the Applicants disclosure.

Even if the art appears combinable or modifiable in a manner that will yield the claimed invention, this is insufficient to make the resultant modification obvious. The art must still suggest the desirability of the modification.

Therefore, it is respectfully submitted that the Examiner has failed to provide an adequate suggestion or motivation to combine Bahl with He et al., Porter et al., and Hanson et al. to arrive at the subject invention as claimed.

Each and Every Feature Not Disclosed

Even if the combination of Bahl with He et al., Curtis et al. and Hanson et al. is deemed to be proper, the *prima facie* case of obviousness has still not been established because the combination does not disclose, either expressly or inherently, each and every

feature of the claimed invention. As set forth above, the Examiner's reliance on Bahl does not disclose, teach, or suggest the novel and unique limitations of the subject invention as claimed.

To reiterate, claim 10 recites that a predetermined number first electronic device **18** re enabled in response to detected RF signal strength being above the predetermined threshold at either one of the access points and based upon the user privileges. The subject invention is not merely having two electronic devices communicate with one another as it seems is suggested by the Examiner's rejection. So long as one access point is measuring the signal strength above the predetermined threshold, the predetermine number of first electronic devices remains enabled. This is different than the references cited and relied upon the Examiner and such a unique and novel limitation is not disclosed, taught, or suggested by the references.

Another unique and novel step that this not disclosed, taught, or suggested by the references is disabling the predetermined number of first electronic devices **18** in response to the signal strength from the second electronic devices **12** being measure below the predetermined threshold. The predetermined number of first electronic devices **18** are re-enabled in response to either of the first and second access points detecting the RF signal above the predetermined threshold and based upon the user privileges.

He et al., Portal et al. and Henson et al. do not provide the omitted claimed features. Since, each and every feature claimed is not disclosed, taught, or suggested, it is respectfully submitted that the 35 U.S.C. §103 rejection is improper and should be withdrawn. Thus, claim 10 is believed to be allowable. Claims 11-12 and 14, which depend directly or indirectly from allowable claim 10, are also believed to be allowable.

Appln. No.: 09/997,299
Amdt. dated July 19, 2006
Reply to Office Action dated April 19, 2006

Accordingly, it is respectfully submitted that the Application, as amended, is now presented in condition for allowance, which allowance is respectfully solicited. Applicant believes that no extensions of time or fees are due, however, if any become required, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account 08-2789.

Respectfully submitted

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July 19, 2006
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